



Ms. Jeanette Doran, Chair
North Carolina Rules Review Commission
1711 New Hope Church Road
Raleigh, NC 27609

Dear Chairwoman Doran:

On behalf of the North Carolina Retail Merchants Association (NCRMA) which represents both chain and independent pharmacies, I write to support the approval of 21 NCAC 46.1816 entitled “Centralized Pharmacy Services” as adopted by the North Carolina Board of Pharmacy (Board). In its simplest form, 21 NCAC 46 .1816 allows pharmacies to utilize an out-of-state pharmacy to provide remote medication order services for prescriptions filled in North Carolina. Remote medication order services allow pharmacies to better manage pharmacist and pharmacy workload and improves patient safety with regards to the dispensing of prescription drugs. Pharmacies have been utilizing remote medication order services during COVID-19 under an emergency waiver issued by the Board pursuant to the current State of Emergency in place since March 2020. With an ongoing workforce shortage, the utilization of remote medication order services has been very important to pharmacies in managing pharmacy workload during COVID-19 as pharmacists have been an integral part of the healthcare system administering COVID-19 vaccines, conducting COVID-19 tests, and continuing to fill millions of prescriptions each day in North Carolina. The Board’s authority to allow for remote medication order services through an emergency waiver will terminate upon the termination of the State of Emergency.

For over twenty-five years, I have participated in the rulemaking process and have supported and opposed proposed administrative rules at every stage of the process from the agency level all the way through the North Carolina Supreme Court. Additionally, I have been involved in numerous legislative changes that have been considered and enacted with regards to North Carolina’s Administrative Procedures Act (NC APA). One of the key tenets of the NC APA is the ability of the general public, and those affected by proposed rules to voice their opinion through the submission of written comments and to make oral comments at a public hearing. Public input is vital to the NC APA but so is the willingness of the administrative body proposing the administrative rules to listen to the public input and act accordingly within the bounds of the NC APA.

21 NCAC 46.1816 was published by the North Carolina Board of Pharmacy in the *North Carolina Register* on May 17, 2021. Written comments were accepted by the Board until July 20, 2021, and a public hearing was properly conducted by the Board also on July 20, 2021. The written comments submitted to the Board and the oral comments made at the public hearing revealed a split in the pharmacy community with some pharmacies strongly supporting 21 NCAC 46 .1816 as proposed by the Board and some pharmacies opposing the 21 NC 46 .1816 as

proposed by the Board. Those in opposition to 21 NCAC 46 .1816 generally pointed to what they perceived to be a rigid administrative rule requiring any out-of-state pharmacy personnel performing activities attributable to filling a prescription for a North Carolina patient to be licensed by the North Carolina Board of Pharmacy and requested an alternative to licensure. At that time, the Board expressed the need to have authority to hold someone responsible should an adverse event occur with regards to a prescription filled for a North Carolina patient with an out-of-state person participating in some way in the filling of that prescription.

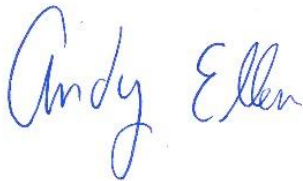
In response to the written comments and comments made at the public hearing, the Board sought to develop what could be deemed an alternative option to licensure of out-of-state pharmacy personnel and amended 21 NCAC 46 .1816 to reflect this alternative option. The alternative option entailed allowing for out-of-state pharmacy personnel to utilize the National Association of Boards of Pharmacy Verify Service rather than obtaining licensure. It should be noted that out-of-state pharmacy personnel obtaining licensure to practice pharmacy in North Carolina remained in 21 NCAC 46 .1816 just as this requirement to perform remote medication order services had been published in the *North Carolina Register* on May 17, 2021. The alternative option for out-of-state pharmacy personnel to utilize the NABP Verify Service is clearly a less stringent alternative requirement and does not differ substantially from the proposed version of 21 NCAC 46 .1816 pursuant to any of the three factors provided for in N.C.G.S. 150B-21.2(g). The Board should be commended for responding to the written and oral comments and providing an alternative option in addition to the content contained in 21 NCAC 46 .1816 as originally published.

In order for North Carolina pharmacies to properly and safely continue to manage their workload and workflow, it is imperative that 21 NCAC 46 .1816 be approved and entered into the North Carolina Administrative Code. Otherwise, the ability for out-of-state pharmacy personnel to provide remote medication order services will end as soon as the State of Emergency ends in North Carolina.

NCRMA supports the approval of 21 NCAC 46 .1816 as it satisfies all of the standards for review by the North Carolina Rules Review Commission as set forth in N.C.G.S. 150B-21.9(a)(1-4).

Thank you for your consideration.

Sincerely,



Andy Ellen
President and General Counsel
North Carolina Retail Merchants Association